REMARKS/ARGUMENTS

Reexamination of the captioned application is respectfully requested.

A. SUMMARY OF THIS AMENDMENT

By the current amendment, Applicants basically:

1. Amend independent claims 36, 60, 70, and 71.
2. Cancel claims 37, 38, 40, and 61 – 63 without prejudice or disclaimer.
3. Respectfully traverse all prior art rejections.
4. Request a one-month extension of time.

B. CLAIM AMENDMENTS

Independent claims 36 has been amended to include the subject matter of dependent claims 37, 38, and 40. In similar fashion, independent claims 60, 70, and 71 have been amended to include the subject matter of dependent claims 61 – 63.

C. PATENTABILITY OF THE CLAIMS

Claims 36-45, 48-53 and 55-71 stand rejected under 35 USC §103(a) as being unpatentable over U.S. Publication 2003/0083069 to Vadgama in view of U.S. Publication 2004/0043798 to Amerga et al. Claim 46 stands rejected under 35 USC §103(a) as being unpatentable over U.S. U.S. Publication 2003/0083069 to Vadgama in view of U.S. Publication 2004/0043798 to Amerga et al and further in view of U.S. Publication 2002/0046292 to Tennison et al. All prior art rejections are respectfully traversed for at least the following reasons.

Applicants' independent claims facilitate a meaningful comparison of plural available access selections of differing multiple access networks so that a terminal can select at least one of the multiple access networks based on a user perceived data quality (the user perceived data quality being determined at the terminal). Applicants have

realized that it is not accurate to compare competing access networks based merely on a certain parameter (such as radio quality) for the respective access networks, since the parameters may have differing meanings or perceptions to the differing access networks. Applicants therefore avoid the problem of comparing the apple of one network with the orange of another network. Instead, Applicants transform a network-based parameter to a user perceived data quality so that the competing access networks are comparatively evaluated based on a common denominator.

As now articulated in all independent claims, the perceived data quality Q_u is obtained from an expression $Q_u = \mu * f(\rho)$, wherein μ is an estimated radio link bitrate μ for each access which is based on the determined radio quality q according to $\mu=g(q)$ [wherein g is an access specific function], and wherein ρ is a utilization factor for at least one node. Thus, the perceived data quality Q_u is obtained from the estimated radio link bitrate μ, which in turn is derived using an access specific function of the determined radio quality, and is determined based on the estimated bit rate μ together with a function of the utilization factor ρ .

The office action properly admits that Vadgama fails to expressly disclose (1) the determining in the terminal of access selection and (2) each of a plurality of available access selections including access selections to differing ones of the multiple access networks. See, e.g., page 3 of the June 18, 2009 office action. But Vadgama lacks more: Vadgama fails to teach or suggest the transformation of different measures from different access networks into corresponding terminal-determined user perceived data quality values that can be used to provide accurate comparison of the competing access networks. Vadgama fails to suggest such transformation to a comparison-worthy user perceived data quality because, e.g., Vadgama only relates to cell selection within one radio access network, and thus there is no need for Vadgama to transform the different measures into a parameter that is comparable between different radio accesses. Rather, Vadgama uses congestion level and signal quality as separate parameters, as evidenced by Vadgama paragraphs 108-110.

It would therefore not be obvious for a skilled person to modify the Vadgama to include limitations such as those from dependent claims 37, 38 and 40 which now reside in the independent claims.

Applicants further submit that Amerga is not properly combineable with Vadgama. Amerga does not guide the skilled person toward the solution of the independent claims. Neither Vadgama or Amerga obtain a terminal-determined user perceived data quality in the manner of Applicants' independent claims in order to facilitate a meaningful comparison among multiple access networks.

Amerga's mobile station 106 receives messages which include parameters for use in cell selection and re-selection (¶[0032]), and comprises a receiver 220 with searcher 250 which obtains channel quality metrics associated with cells (¶[0033] and ¶[0034]). But Amerga fails to teach or suggest any function that evaluates the channel quality metrics so that a comparison of the metrics of the differing cells can be fairly or objectively evaluated. For example, Amerga does not teach or suggest using a function of utilization of a node (e.g., a utilization factor) for evaluating the metrics of different cells.

Nor does Vadgama's use of congestion levels teach or suggest Applicants' claimed manner of determining user perceived data quality as a function of both radio quality q and utilization factor [$Q_u = \mu * f(\rho)$]. In most embodiments Vadgama uses congestion and signal quality as separate, independent determinations based on respective thresholds (see, e.g., Vadgama ¶¶ [0107] - [0110]. In an alternate embodiment (Vadgama ¶[0111]) Vadgama assigns a same weight to all congestion levels for all base stations and a same weight to signal quality for all base stations, thus failing to teach the utilization factor as being a comparison-enabling criteria for making meaningful distinctions between different cells.

D. MISCELLANEOUS

In view of the foregoing and other considerations, all claims are deemed in condition for allowance. A formal indication of allowability is earnestly requested.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

Should the Examiner feel that an interview with the undersigned would facilitate allowance of this application, the Examiner is encouraged to contact the undersigned.

Respectfully submitted,
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